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June 12, 2020

***VIA ECF***

Honorable Katherine Polk Failla  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**MEMO ENDORSED**

Re: *Scher et al. v. Turin HDFC et al.*, 19-cv-2089 (KPF) (OTW)  
Related Docket No. 13-cv-5258 (KPF)  
**Motion for Extension of Deadline to File Response to Plaintiffs’  
Counterstatement of Additional Facts**

Dear Judge Failla:

On behalf of Defendants in this action, we respectfully request that the deadline for Defendants to file their Responses to Plaintiffs’ Counterstatement of Additional Facts (Doc. 80) be extended and scheduled for July 8, 2020. Plaintiffs’ counsel initially consented to this request with the caveat set forth below, and then withdrew that consent.

In responding to the Defendants’ motion for summary judgment and Rule 56.1 Statement of Undisputed Facts, the Plaintiffs filed a document that included a Statement of Additional Undisputed Facts. See Doc. 80 at 142-201. The Plaintiffs’ Additional Statement of Undisputed Facts consists of 394 paragraphs of alleged facts, including 93 new exhibits. Upon our request, we only received the Word version of this document yesterday.

In light of the length of the document that Defendants need to respond to and the logistical issues involved with our firm’s team working remotely, we respectfully request that the deadline to file Defendants’ Responses to Plaintiffs’ Counterstatement of Additional Facts be scheduled for July 8, 2020.

As quoted below, Plaintiffs did not initially<sup>1</sup> oppose our request, but first took the position that our time to respond to the additional facts was June 10, 2020. We respectfully submit that since we only received the Word version from the Plaintiffs yesterday upon our request, that we did timely move, particularly given the 394-paragraph size of the additional factual statements that we must now respond to. In any event, we did appreciate

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<sup>1</sup> Plaintiffs’ counsel at 3 p.m. withdrew his prior consent as set forth in the email chain attached hereto as Exhibit A because he did not like the way that we had phrased our request, although we quoted his initial consent email verbatim as reflected in attached email chain.

Plaintiffs' counsel's initial consent to our request, just as we consented to his three requests to file his opposition papers, for a total of 3 ½ weeks of extensions.

Plaintiffs' exact initial position on our request was as follows:

"Plaintiffs' position with respect to Defendants' request to extend Defendants' time to respond to Plaintiffs' Local Rule 56.1 Statement of Additional Facts, Defendants notification to Plaintiffs of which intention was made on the evening of June 11, 2020 and after Plaintiffs filed their own responsive Local Rule 56.1 statement on the June 10, 2020 deadline, is that, if the Court is willing to entertain the application after the expiration of the Defendants' time for responding, Plaintiffs do not oppose the application for the limited purpose of extending Defendants' time to file Defendants' Local Rule 56.1 Response to Plaintiffs' Local Rule 56.1 Statement of Additional Facts."

Although Local Rules 6.1 and 56.1 do not specifically speak to the amount of time to file responses to a counterstatement of additional facts, out of an abundance of caution, we are making this letter request within one day of receiving the Word version of Mr. Bierman's additional facts, and we apologize to the Court and to Mr. Bierman if he is correct as to the timeliness of the request, to which he in any event initially consented to. This is Defendants' first request for an extension and, if granted, will not extend any other deadline in this action. We appreciate the Court's consideration of this request.

Respectfully submitted,

*Jacques Catafago*

Jacques Catafago

Application GRANTED. Defendants have until July 8, 2020, to file a response to Plaintiffs' Counterstatement of Additional Facts. However, the Court notes for the parties that the Court's scheduling order for briefing did not foresee any sort of reply briefing. The Court therefore warns the parties that if the reply 56.1 statements are merely duplicative of their respective counterstatements, the Court will disregard them.

Dated: June 12, 2020  
New York, New York

SO ORDERED.

*Katherine Polk Failla*

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE